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SINGLE BENCH

IN THE HIGH COURT OF JUDICATURE AT BILASPUR CHHATTISGARH

WRIT PETITION (C) NO. - 6989 **OF 2006**

PETITIONER - **Jainarayan Kesharwani** S/o Jhabbu Lal Kesharwani aged about 32 years, Resident of – Tilda, Police Station- Newra, , District - Raipur (C.G.)

P.R. No. 10 93/06
Presented by Shri S. Pandey
dated 6-12-06

VERSUS

RESPONDENT - **Smt. Rajni Kesharwani**, aged about 28 years, W/o Jainarayan Kesharwani, D/o Bhagwat Kesharwani, Resident of - Village- Dhanpuri, Police Station- Dhanpuri, District- Shahdol (M.P.)

WRIT PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA

XI-HC-78

(44)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...WP(C)No. 6989/06 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	2.1.2007 Shri Shivendu Pandya, Advocate for the petitioner. Heard. By this petition under Article 227 of the Constitution of India the petitioner has questioned the legality & correctness of the order dated 15.2.2006 (Annexure P-1) passed by the 2nd Additional Principal Judge, Family Court, Raipur whereby learned 2nd Additional Principal Judge has allowed the application of the respondent herein filed under Section 24 of the Hindu Marriage Act,1955 and directed the petitioner herein to pay to respondent Rs.1,000/- per month as maintenance allowance, Rs.500/- on each date of hearing for coming from Burhar to Raipur as also Rs.2,000/- towards cost of litigation. The main grievance of the petitioner is that even though the petitioner herein in reply to the application of the respondent herein filed under Section 24 of the Hindu Marriage Act, 1955 specifically raised a plea that he is already paying Rs.1,000/- as maintenance allowance to the respondent in pursuance of the order dated 26.4.2003 passed by the Judicial Magistrate 1st Class, Burhar, but while passing the impugned order the said amount has not been considered by the 2nd Additional Principal Judge.. I have perused the impugned order and from the order it is clear that the fact of grant of Rs.1,000/- as maintenance allowance by the Judicial Magistrate, Burhar in favour of respondent herein has not been considered by the 2nd Additional Principal Judge. As such, impugned order is ex-facie illegal and liable to be set-aside on this ground only. Therefore, this petition is disposed of at the admission stage itself without issuing notice to the respondent because the order is ex-facie illegal, issuance of notice will unnecessarily delay the disposal of this petition and	

P.T.O.

(45)

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the respondent shall be put to unnecessary cost. However, it is made clear that if the respondent still feels aggrieved by this order, she will be at liberty to move an application for review/recall of this order.

In the circumstances, the petition is allowed, impugned order dated 15.2.2006 (Annexure P-1) passed by learned 2nd Additional Principal Judge, Family Court, Raipur is hereby set aside and the 2nd Additional Principal Judge is directed to decide the application of the respondent herein filed under Section 24 of the Hindu Marriage Act, 1955 afresh taking into consideration the order dated 26.4.2003 passed by the Judicial Magistrate, Burhar whereby the said Magistrate has already granted maintenance allowance of Rs.1,000/- per month to the respondent herein.

With the direction aforesaid, the petition stands disposed of.

Consequently, M.(W.)P. No.4973/06 also stand disposed of.

Sd/-
Ag. Chief Justice

P.T.O.